Legislation Details (With Text)

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Type:	Ordinance	**Status:**	Mayor's Office
File created:	9/2/2021	**In control:**	City Council
On agenda:	10/26/2021	**Final action:**	10/26/2021

Title: Ordinance No. 21-85 Certifying Delinquent Stormwater Fees and Charges to the El Paso County Treasurer for Collection

  Presenter:
Richard Mulledy, Stormwater Enterprise Manager
Travis Easton, Public Works Director

Sponsors:

Indexes:

Code sections:

Attachments: 1. SW-DelinquentFeesORD-2021-09-21, 2. Exhibit A, 3. Signed Ordinance 21-85

Date	Ver.	Action By	Action	Result
10/26/2021	1	City Council	finally passed	Pass
10/12/2021	1	City Council	approved on first reading	Pass
9/27/2021	1	Council Work Session	referred	

Ordinance No. 21-85 Certifying Delinquent Stormwater Fees and Charges to the El Paso County Treasurer for Collection

Presenter:
Richard Mulledy, Stormwater Enterprise Manager
Travis Easton, Public Works Director
Summary:
The stormwater service fee benefits all of the citizens of Colorado Springs and provides sustainable funding to address capital infrastructure needs, maintenance of the public stormwater system, and regulatory compliance of the City's MS4 Permit, the Federal Clean Water Act, and the 2021 Federal Consent Decree.

The voter-approved stormwater service fees went into effect July 1, 2018. The Stormwater Enterprise has been billing property owners by sending monthly notices of current and past due fees for approximately three years. Of those property owners billed through the City, 97% of property owners have paid their fees. For those property owners who have not paid their fees, the Stormwater Enterprise will pursue the collection of unpaid fees per City Code Section 14.8.109 (D) and in accordance with the Stormwater Enterprise Billing Rules and Customer Procedures.
City Code Section 14.8.109 (D) states that nonpayment of stormwater fees creates a priority lien upon the property to which the fee is associated. The Stormwater Enterprise will initiate lien proceedings for any customer having past due invoices at or exceeding $200 and which are 90 days or more past due. The Stormwater Enterprise is requesting City Council pass the proposed ordinance

to certify the delinquent fees to the El Paso County Treasurer for collection.

Background:

The City of Colorado Springs, Colorado Springs Utilities (CSU), and Pueblo County signed an Inter-Governmental Agreement on April 28, 2016, committing spending for stormwater infrastructure, operations, maintenance, and MS4 compliance programs in the amount of $460 million over the next two decades to improve the City's stormwater system.

On November 7, 2017, the citizens of Colorado Springs passed Ballot Initiative 2A approving the implementation of a stormwater service fee per Ordinance 17-19 beginning July 1, 2018. The fees were established as follows:

Residential property: $5 per dwelling unit/month
Non-residential property: $30 per acre/month

To implement the billing of the fees, the City partnered with CSU to administer the residential fee. The monthly fee was added to the utility bill if there was an active residential water service agreement. The City continues to partner with CSU and has transferred a portion of the non-residential stormwater fees to the property owner's utility bill where there is an active water service agreement. These fees fall under the CSU business rules and collection process.

The City Stormwater Enterprise has billed the remaining property owners directly by sending monthly notices of current and past due fees through a third-party biller. For those property owners who have not paid their fees, the Stormwater Enterprise has mailed delinquent notices to property owners notifying them they are subject to collection and lien.

A Notice of Intent to Lien letter was sent by certified mail in August to customers with invoices 90 days or more past due and with the amount due, at or exceeding $200. This letter indicates that the Stormwater Enterprise will perfect a lien on the property if the account is not brought current. If payment is not received, customers will be subject to lien and their accounts will be sent to the El Paso County Treasurer for collection. There are currently 126 accounts that total $66,398.92 that fall within the current guidelines. No liens will be initiated for customers that notified the Stormwater Enterprise of an active bankruptcy, accounts that are under review, or those with an active appeal.

A processing fee of $30 will be added to each customer account. This fee will cover the expenses to record, and later release the liens with the County Clerk and Recorder. Once certified, the County Treasurer will add a 10 percent administrative fee to all customer accounts received. Letters will be sent from the County Treasurer to each customer indicating that the lien has been filed. This letter will indicate that payment must be made to the County Treasurer's Office within 30 days. If payment is not received within 30 days, the total amount due will be added to the property owner's tax statement in January 2022. If the property tax bill is not paid in full, all unpaid balances fall into the provisions for tax lien sale by the Treasurer.

Once the lien is filed, the Stormwater Enterprise will no longer mail past due notices. However, ongoing billing to these customers will continue for future stormwater fees.

Previous Council Action:

On August 22, 2017, City Council approved Resolution 89-17 submitting the 2A ballot language to the registered qualified electors of the City of Colorado Springs regarding approval of Ordinance 17-19 authorizing the collection of stormwater service fees to be assessed on all developed and improved

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real property within the City of Colorado Springs.

On November 12, 2019, City Council approved Ordinance 19-81, certifying delinquent stormwater fees to the Treasurer for collection. A total of 53 accounts in the amount of $32,768 was certified for collection.

On October 27, 2020, City Council approved Ordinance 20-72, certifying delinquent stormwater fees to the Treasurer for collection. A total of 170 accounts in the amount of $71,817 were certified to the Treasurer for collection.

On February 23, 2021, City Council approved Resolution 27-21 to raise the stormwater fee. To ease the transition to a sustainable fee, the increase is implemented in three phases. The stormwater fees were increased to $7 per residential unit per month, and $40.50 per acre per month on non-residential developed or improved property effective July 1, 2021. Subsequent increases go to $7.50 per residential unit per month and $43 per acre per month effective July 1, 2022, and $8 per residential unit per month and $45 per acre per month effective July 1, 2023.

Financial Implications:
Pursuing the collection of unpaid stormwater fees per City Code Section 14.8.109 (D) supports the City's commitment to fund the stormwater program to meet capital needs, operations and maintenance, MS4 permit and Consent Decree compliance and Inter-Governmental Agreements. If the Stormwater Enterprise is not able to collect unpaid fees, the decrease in revenue will impact the City's ability to meet these financial obligations.

City Council Appointed Board/Commission/Committee Recommendation:
N/A

Stakeholder Process:
On September 14, 2021, the City Council Budget Committee reviewed the Ordinance to certify the delinquent stormwater fees to the County Treasurer for collection.

Alternatives:
The Stormwater Enterprise could hire a collection agency to pursue the collection of unpaid fees. However, paying fees to a collection agency would reduce the funding necessary for both the financial obligations, and the improvements that the citizens voted to support.

Proposed Motion:
Move approval of the Ordinance to certify the delinquent stormwater fees and charges to the County Treasurer for collection.

An Ordinance Certifying Delinquent Stormwater Fees and Charges to the El Paso County Treasurer for Collection